



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Drinking Water Program – Water Quality Assurance
BRP WS 26 Sale or Acquisition of Land for Water Supply Purposes
Instructions and Supporting Materials

Introduction

These *Instructions & Supporting Materials* provide guidance on the information that must be provided to MassDEP when submitting permit application BRP WS 26. The permit application is available in both Microsoft Word and PDF format. It may be downloaded from MassDEP's web site at <https://www.mass.gov/how-to/ws-26-sale-or-acquisition-of-land-for-water-supply-purposes>. Applications in Word may be completed electronically. PDF applications must be printed out and completed by hand.

Public water suppliers must also obtain a Transmittal Number and complete a Transmittal Form. This form and the instructions are available on MassDEP's website: <https://www.mass.gov/service-details/transmittal-form-number-for-massdep-permit-application-payment>

Public water suppliers seeking to acquire land through a conservation restriction should refer to MassDEP's Model Conservation Restrictions for public wells or surface supplies. The Models and instructions are available on MassDEP's website, <https://www.mass.gov/lists/groundwater-wellhead-protection-and-surface-water-supplies>.

MassDEP Boston Office 617-292-5770 Program.director-dwp@mass.gov		
Regional Offices		
Western Office	Statehouse West - 5 th floor 436 Dwight St. Springfield, MA 01103	413-784-1100
Central Office	8 New Bond St. Worcester, MA 01606	508-792-7650
Northeast Office	205-B Lowell St. Wilmington, MA 01887	978-694-3200
Southeast Office	20 Riverside Dr. Lakeville, MA 02347	508-946-2700
To locate your Regional Office https://www.mass.gov/service-details/massdep-regional-offices-by-community		



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1. What is the purpose of this permit approval?

MassDEP approval ensures that the proposed acquisition or release of water supply land meets Massachusetts drinking water requirements and standards will not adversely impact the quantity or quality of the water supply.

2. Who must apply?

- Public water suppliers seeking to acquire ownership of land or rights in land (such as a conservation restriction or an easement) for water supply purposes; and
- Public water suppliers seeking to release ownership of land or rights in land, currently held for water supply purposes.

Massachusetts General Law (M.G.L.) Chapter 40 Sections 38, 39B and 41 (c.40 s.38, s.39B, s.41) and M.G.L. c.40 s.15B requires municipalities and water districts to obtain MassDEP approval prior to acquiring or releasing land for drinking water supply purposes. Pursuant to M.G.L. c.165 s.4B, certain water companies and corporations must also obtain MassDEP approval prior to acquiring or releasing water supply land.

3. What other requirements should be considered when applying for this permit ?

The following additional requirements serve as a guide and do not necessarily include all additional requirements. For more information refer to MassDEP's the *Guidelines and Policies for Public Water Systems*, April 2014, available at; <https://www.mass.gov/service-details/guidelines-for-public-water-systems>.

- **CONSERVATION RESTRICTIONS:** A conservation restriction (M.G.L. c.184 s.31-33) for water supply purposes requires approval from both MassDEP and the Executive Office of Energy and Environmental Affairs (EEA). For more information about the conservation restriction process and requirements see MassDEP's Model Conservation Restrictions, and Conservation Restriction Fact Sheet at: <https://www.mass.gov/lists/groundwater-wellhead-protection-and-surface-water-supplies>.
- **PUBLIC HEARINGS:** Pursuant to M.G.L. c.40 s.41, a public hearing must be held when acquiring land for water supply purposes. MassDEP does not issue an approval letter for the acquisition until the public hearing process is completed. Public water suppliers seeking to acquire land by a specific due date should contact their Regional Office as soon as possible to ensure a timely decision.
- **RELEASE OF LAND:** The release of land currently held for water supply purposes may require prior MassDEP approvals, such as approval to 'abandon a source'. If you are seeking to release land, please contact your Regional Office prior to submitting Permit Application BRP-WS 26. The release of water supply land may also be subject to approval by the Massachusetts Legislature. For more information contact EEA at 617-626-1170, also see; <https://www.mass.gov/files/documents/2016/08/mp/dcsarticle97.pdf>.
- **MEPA:** Certain land transactions may require a review under the Massachusetts Environmental Policy Act (MEPA). Refer to 301 CMR 11.03 of the MEPA regulations to determine if your land transaction is subject to a MEPA review. For more information contact the MEPA Unit in Boston at 617-626-103, or see the MEPA contact list at <https://www.mass.gov/service-details/mepa-office-contact-list>. If a MEPA review is required, MassDEP cannot issue a final determination on an application until the MEPA process has been completed. Copies of MEPA filings (with reference to any applicable Transmittal numbers) should be sent to the appropriate program offices in Boston and the MEPA Coordinator in the appropriate Regional Office.



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4. What is the application fee?

The fee for a BRP WS 26 approval is \$1,290. Municipalities and non-profit water systems are exempt from the application fee. If you are unsure if the fee applies to your application, please contact your Regional Office.

5. What is the Primary Permit Location?

Department of Environmental Protection
Drinking Water Program
Regional Office Address (shown on the first page of this document)
<https://www.mass.gov/service-details/massdep-regional-offices-by-community>

6. What is the timeline for this application?

The specific timelines for MassDEP permit applications are outlined in the Timely Action Schedule and Fee Provisions available at: <https://www.mass.gov/guides/massdep-permitting-assistance#fees-timelines>. It is recommended that public water suppliers contact their Regional Office at their earliest convenience.

7. What is the annual compliance fee?

There is no annual compliance fee for this approval.

8. How long is this approval in effect?

If your application is approved, MassDEP will issue the PWS an Approval letter with the effective dates.

9. How can I avoid the most common mistakes made in applying for this approval?

- Begin the approval process as early as possible. MassDEP approvals may be obtained **prior** to municipal approvals or grant awards.
- Be sure to include **ALL** of the items listed in the *Application Completeness Checklist*.
- Contact your Regional Office if you have questions or do not understand a requirement.
- Be sure to obtain the required Transmittal Form and Number and submit a copy to the address on the last page of the *Application Completeness Checklist*.

10. What are the regulations that apply to this approval?

Where can I get copies?

- Drinking Water Regulations, 310 CMR 22.00
<https://www.mass.gov/regulations/310-CMR-22-the-massachusetts-drinking-water-regulations>
- Timely Action and Fee 310 CMR 4.00 <https://www.mass.gov/files/documents/2017/01/nq/310cmr04.pdf>
- Administrative Penalty Regulations, 310 CMR 5.00
<https://www.mass.gov/regulations/310-CMR-5-administrative-penalty-regulations>.

These regulations may also be purchased at:

State House Bookstore
Room 116
Boston, MA 02133
617-727-2834

State House West Bookstore
436 Dwight Street
Springfield, MA 01103
413-784-1376



Instructions and Supporting Materials

Water Supply Land Acquisitions - Application Completeness Checklist

(check all items submitted, include this page in your application submittal)

<input type="checkbox"/>	MassDEP Transmittal Form	https://www.mass.gov/service-details/transmittal-form-number-for-massdep-permit-application-payment
<input type="checkbox"/>	BRP WS 26 Permit Application	https://www.mass.gov/how-to/ws-26-sale-or-acquisition-of-land-for-water-supply-purposes
<input type="checkbox"/>	A <u>Letter of Request</u> to the Regional Office. [If acquiring Zone I land for a new source, please refer to Chapter 4 of the Public Water Supply Guidelines; https://www.mass.gov/service-details/guidelines-for-public-water-systems].	The Letter of Request must include: 1. Source name and PWS ID# of the source(s) to be protected; 2. Current zoning of the property; 3. Property owner(s) name and address; and 4. A statement explaining why this acquisition is important for public drinking water supply protection [a statement is required only for land acquisitions <u>not</u> located in an existing MassDEP designated Zone I, II, Zone III or Zone A, B, C.
<input type="checkbox"/>	A location map of the property (topographic or GIS)	This map must identify; 1. The property proposed for acquisition; 2. The source(s) to be protected; and 3. The MassDEP protection Zones (include all MassDEP designated Zones that intersect the property).
<input type="checkbox"/>	A DRAFT PROPERTY MAP (2 copies) This must be a map suitable for recording with the Registry of Deeds, such as a plan of land or municipal assessors map.	This map must display: 1. The boundaries of the proposed acquisition. If the property will be resurveyed or the acquisition is a portion of a lot or parcel, please show the approximate boundaries of the land to be acquired. 2. Abutting street(s) and their name(s). 3. Access roads to the property. Include existing and proposed easements on adjacent land necessary for access to the property. 4. Municipal systems and water districts must include the following <i>Notes: (i) This property is acquired for water supply protection pursuant to Massachusetts General Laws Chapter 40, Sections 38, 39B and 41, and Article 97 of the Amendments to the Massachusetts Constitution and is under the control of the Board of Water Commissioners (or Board of Selectmen authorized as such) of (City/Town/Water District) of (City/Town). (ii) MassDEP approval is required, pursuant to M.G.L Chapter 40 Section 15B, before any portion of this property can be transferred to a different ownership or control, or before the property can be changed to a different use..</i>
<input type="checkbox"/>	A DRAFT DEED or DRAFT CONSERVATION RESTRICTION (2 copies)	Language must transfer ownership (deed) or control (conservation restriction) of the property to the Board of Water Commissioners, or acting Select Board, and must include the <u>Notes</u> stated above.
<input type="checkbox"/>	ABUTTER NAMES and ADDRESSES	Owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line.



Instructions and Supporting Materials

Water Supply Land Releases - Application Completeness Checklist

(check all items submitted, include this page in your application submittal)

<input type="checkbox"/>	MassDEP Transmittal Form	https://www.mass.gov/service-details/transmittal-form-number-for-massdep-permit-application-payment
<input type="checkbox"/>	BRP WS 26 Permit Application	https://www.mass.gov/how-to/ws-26-sale-or-acquisition-of-land-for-water-supply-purposes
<input type="checkbox"/>	A Letter of Request to the Regional Office	<p>The letter must:</p> <ol style="list-style-type: none">1. Explain why the land is no longer necessary for water supply purposes; i.e. source has been approved for abandonment;2. Identify the source(s) this land protected;3. Identify the MassDEP designated protection Zone(s) this land is/was located in; and4. Confirm that the land was not purchased with a state grant.

MassDEP Boston Office [617-292-5770](tel:617-292-5770)

TO SUBMIT THE PERMIT APPLICATION PACKAGE

- ✓ Be sure the appropriate Checklist Items are completed.
- ✓ Send *Application BRP WS26*, the appropriate *Application Completeness Checklist*, the *Checklist Items*, and a copy of the *MassDEP Transmittal Form* to:

Department of Environmental Protection
Drinking Water Program
Regional Office Address

<https://www.mass.gov/service-details/massdep-regional-offices-by-community>

- ✓ Send a copy of the MassDEP Transmittal Form to:
 - Department of Environmental Protection
P.O. Box 4062
Boston, MA 02211
- ✓ If the fee of \$1,290 is required, enclose a check or money order made payable to Commonwealth of Massachusetts along with the Transmittal Form.